

MASS.
R1.2:
L57/
986/
1-8

★ UMASH/AMHERST ★



312066 0281 6273 7



.32
17
10
8

MASS. R1.2: L57/986 N1-8/IND.



The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

IRA A. JACKSON

COMMISSIONER

KATHLEEN KING PARKER, CHIEF

RULINGS AND REGULATIONS

November 5, 1986

DEC 3 1986

City of Massachusetts
Repository Copy

Dear Librarian,

Several months ago you or another staff person at your library agreed to add the softbound collection of Massachusetts Department of Revenue letter rulings and index to your library collection. This package contains bound letter rulings from 1980 through 1985 and the index. We have included the 1986 rulings (86-1 through 86-8) in the back of your index. Please note that the index includes letter rulings from 1977 through 1986-8. Although we did not reproduce the rulings from 1977 through 1979 a copy of a particular old ruling may be obtained by calling the Rulings and Regulations Bureau at 727-8240. We will send you additional 1986 letter rulings when they become public.

We will not bind the 1986 or subsequent year letter rulings. After this year the rulings will be published in a multi-volume set which will include all materials produced by the Department of Revenue. The compilation is called the MASSTAX GUIDE and will be available from West Publishing for a fee. We will send information on the new set when such information becomes available.

Very Truly Yours,

A handwritten signature in cursive script, reading "Kathleen King Parker".

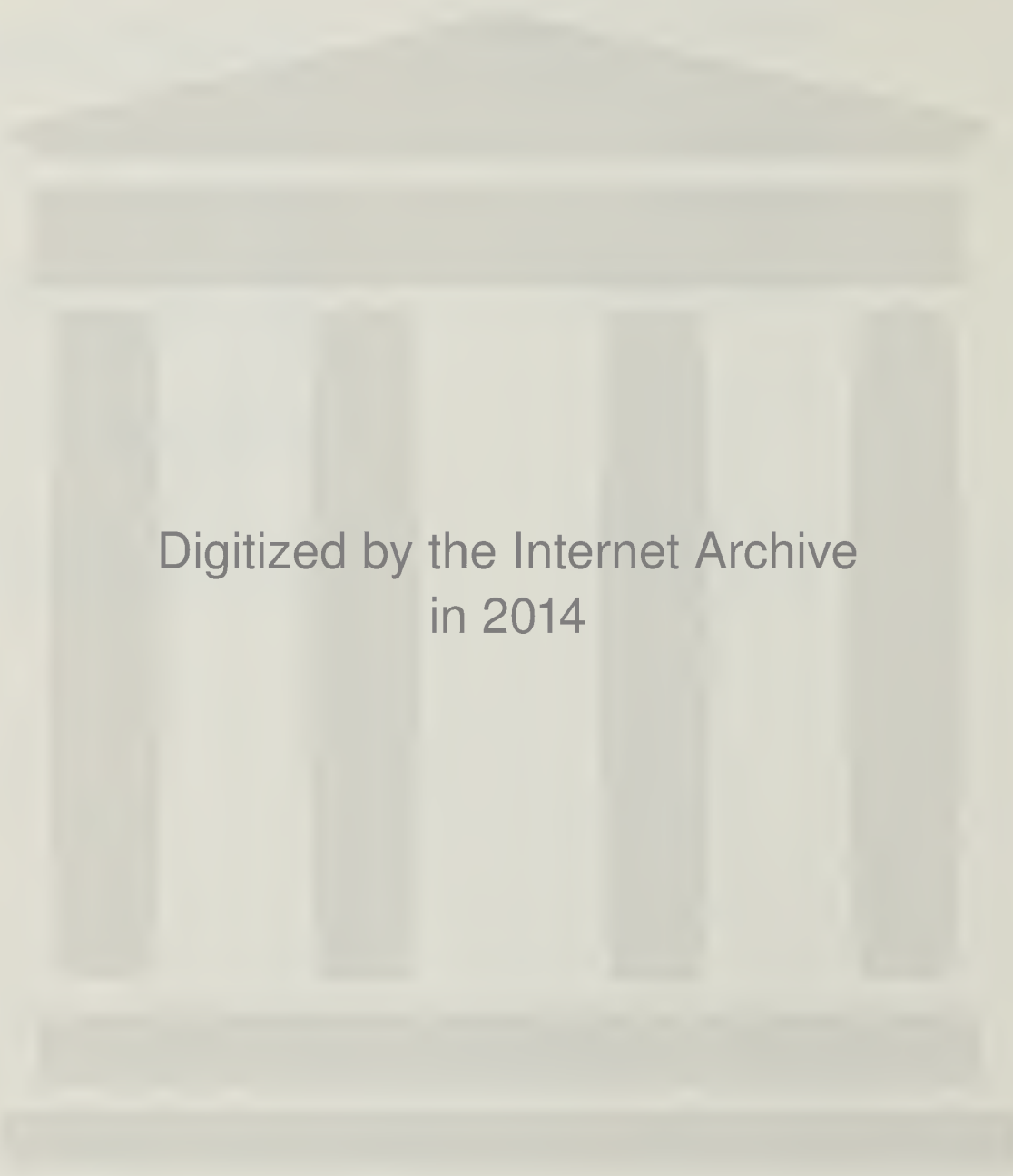
Kathleen King Parker, Chief
Rulings and Regulations Bureau

KKP:emc
1826X

MASS. R1.2: L57/986

Letter Rulings from 1/86.

LR	Tax Type	Subject
86-1	Corporate Excise	Securities Corporation
86-2	Sales/Room Occupancy	Recreational facilities; Allocation of Sales, Room Occupancy Taxes
86-3	Sales Tax	Retouching of Photographs
86-4	Sales Tax	Contractors, Direct Payment Permit
86-5	Room Occupancy	Hotel Rooms Rented to Department of Public Welfare Clients
86-6	Income Tax	Pooled income fund, foreign government as customer
86-7	Room Occupancy	Dormitory Style Rooms
86-8	Sales Tax	Embroidering thread



Digitized by the Internet Archive
in 2014

<https://archive.org/details/departementofreve9861mass>



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

March 4, 1986

("Corporation") is a Massachusetts corporation with a sole shareholder, ("Shareholder"). Before 1984 the Corporation (then called) engaged in the business of fish processing. In late 1983, substantially all of the Corporation's assets, including all its operating assets, were sold to an unrelated third party, and the proceeds were invested in various marketable securities, including U.S. Government securities, tax-exempt securities issued by various state and local authorities, and shares of money market mutual funds.

In addition to owning all of the stock of the Corporation, the Shareholder owns, directly or through a wholly-owned intermediary corporation, all of the stock of two other companies, ("Companies"). Before 1984 the Companies, like the Corporation, were operating entities. The assets of the Companies were sold as part of the transaction in which the assets of the Corporation were sold, and the Companies now engage solely in passive investment activities. The Shareholder also owns approximately 25 percent of a class of nonvoting common stock of , a corporation of which the remaining outstanding stock is held by the Corporation and which engages solely in passive investment activities.

In connection with the sale of its assets and the cessation of its conduct of an operating business, the Corporation purchased, in June of 1984, single-premium immediate or deferred annuity contracts ("Contracts") on the lives of individuals previously employed either by the Corporation or by the Companies. The Contracts were purchased to fund deferred compensation obligations running to twelve individuals (the "Annuitants") in respect of prior employment. The Contracts were purchased and continue to be owned by the Corporation.

All of the Contracts, with one exception, have certain features in common. Each promises an annuity for a term certain specified in the Contract. (The term varies from Contract to Contract.) The Corporation, as owner of each Contract, is entitled to all payments under the

Contract. If the Annuitant dies before the expiration of the guaranteed term, annuity payments will continue (on either a reduced or unreduced basis, depending on the Contract) to the Corporation. Payments under the Contract will cease at the end of the guaranteed term, whether or not the Annuitant survives.

In the case of one Annuitant, Contracts were purchased to provide an annuity over the life of the Annuitant, rather than over a fixed period certain. However, these Contracts also have a guaranteed feature, should the Annuitant die before a specified date. As with the other Contracts, these Contracts are owned by the Corporation, which is entitled to all payments.

Because each of the Contracts has a specified beginning date, whereas commencement of deferred compensation payments to the Annuitants will depend on their date of termination of employment, it is possible that payments under the Contracts will not in all cases be made over the same period over which the corresponding deferred compensation payments are to be made. Where this proves to be the case -- for example, where an Annuitant continues employment beyond the annuity commencement date under a Contract (so that some of the deferred compensation payments (wing to the Annuitant will be payable after Contract payments to the Corporation have ceased) -- the Corporation may purchase a supplemental Contract to fund those "uncovered" deferred compensation payments.

On behalf of the Corporation, you ask whether the Corporation will fail to qualify as a security corporation under Massachusetts General Laws Chapter 63, Section 38B, because of its holding and receiving payments under the Contracts. We conclude that the Corporation's holding of single-premium immediate or deferred annuity contracts purchased to fund deferred compensation obligations running to former employees of the Corporation or the Companies in respect to prior employment does not prevent the Corporation from classification as a security corporation under G.L. c. 63, § 38B.

Every domestic business corporation or foreign corporation "engaged exclusively in buying, selling, dealing in, or holding securities in its own behalf and not as a broker, except securities of a [domestic international sales corporation]" may be classified as a security corporation and afforded favorable tax treatment for purposes of the corporate excise. G.L. c. 63, § 38B. The requirement of exclusivity of activity in Section 38B is interpreted strictly. "The fact that a major portion of [a corporation's] activities may have fit the statutory definition does not satisfy the statutory requirement." State Tax Commission v. PoGM Co., 369 Mass. 611, 612 (1976). However, the Department of Revenue applies the exclusivity requirement in a manner which allows the security corporation to do those things that must be done in order to carry on a business, that is, incurring and paying business expenses, including obligations to employees. In this light, the Department of Revenue has recognized that a security corporation's owning assets used in the conduct of its investment business, such as office furniture or supplies, or the retention of insurance on the lives of key officers of the security corporation, does not disqualify the corporation under c. 63, § 38B.

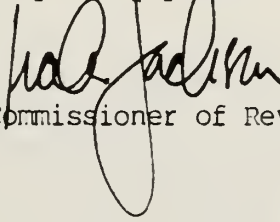
March 4, 1986

Page three

The corporation's activities otherwise exclusively consist of the dealing in investment securities. The holding of the annuity contracts, whose return is tailored to coincide directly with the accrual of the deferred compensation obligations, is part of the functioning of the business. By holding these Contracts, the Corporation is not engaging in any commercial or other disqualifying business activity. The Contracts, like the "key officer insurance," are not the type of disqualifying asset contemplated by c. 63, § 38B.

Therefore, the holding of the Contracts will not disqualify the Corporation from security corporation classification.

Very truly yours,


Commissioner of Revenue

IAJ:JA:gh

LR 86-1



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building

100 Cambridge Street, Boston 02204

January 22, 1986

Thank you for your letter requesting clarification of the Department's position concerning a hotel operator's allocation of a single fee charged to its guests, among the charge for rent subject to the room occupancy excise, the charge for meals subject to the sales tax on meals, and the charge for the use of recreational facilities not subject to tax. You ask these questions on behalf of a client which operates a resort hotel and is an operator within the meaning of G.L. c. 64G.

I conclude that a hotel operator may allocate the single fee between the charge for rent subject to the room occupancy excise and the charge for meals subject to the sales tax on meals, provided that the allocation is reasonable and fully documented in the operator's books and records. I conclude that the operator may not allocate a portion of the single fee to a non-taxable charge for the use of recreational facilities, unless this charge is entirely optional. I understand that the charges which makes for the use of recreational facilities are not optional.

Allocation between rent charge and meals charge

Under G.L. C. 64H, §§ 2, and 6(h), there is a five percent sales tax on sales of meals served by restaurants. Under G.L. c. 64G, § 3, there is a 5.7 percent excise upon the transfer of occupancy of any room or rooms in a hotel. In addition, under G.L. c. 64G, § 3A, added by St. 1985, c. 145, § 6, a city or town which accepts the provisions of c. 64G, § 3A, may impose an additional excise of up to four percent on the transfer of occupancy of any room or rooms in a hotel within the city or town. See also 830 CMR 64G.01, "Local Option Room Occupancy Excise."

The Department allows hotel operators whose charges to guests include meals, to allocate the charges between charges for the room and charges for meals. See Letter Ruling 84-90, copy attached. Your client may make the allocation between room charges and meal charges, provided that the allocation is reasonable and supported by the books and records of the hotel.

Charges for use of recreational facilities

The allocation of part of the single fee to a charge for use of recreational facilities is different. This is because by statute the room occupancy excise is imposed on the transfer of occupancy, which is defined to include "the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession" of a room or rooms. G.L. c. 64G, § 1(e). The right to use the hotel's recreational facilities is the right to use "services and accommodations accompanying the use" of the hotel room. The charge for this right to use recreational facilities accompanying the use of the hotel room is subject to the room occupancy excise.

If the hotel's guests were able to choose whether or not to purchase the right to use the recreational facilities, then my conclusion might well be different. As I understand the facts, your client's guests are not given the option of choosing whether or not to purchase the right to use the recreational facilities.

Earlier Letter from Department Employee

I understand that in 1979 your client received a letter from a Department employee which arguably approved the allocation of the single charge among room charge, meals charge, and non-taxable facilities charge. This approval was conditioned upon your client's agreement to state the "facilities charges" separately in its guest bills and books and records. Your client has not complied with the requirement of separate statement.

I do not have the earlier letter before me. However, to the extent that any earlier written or oral representations by the Department conflict with my conclusions in this letter, this letter revokes the earlier representations.

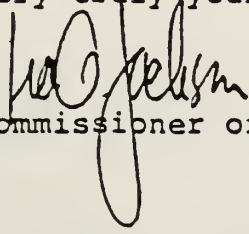
January 22, 1986
Page three

Proposed Form Bill

You attached to your letter a form bill showing separate statement of the room charge, the meals charge and the facilities charge. You ask whether your client may use this bill to make the allocations shown. My conclusion that your client may not allocate a separate non-taxable "facilities charge" answers your question about the form bill.

Please be advised that this is a letter ruling within the meaning of 830 CMR 62C.03.

Very truly yours,


Commissioner of Revenue

IAJ/KKP:loc
Enclosure

LR 86-2



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

April 16, 1986

You ask whether the Massachusetts sales tax applies to the retouching of photographs with an airbrush, for a fee, pursuant to a customer's request.

A five percent tax is imposed by G.L. c. 64H, § 2 on retail sales of tangible personal property in Massachusetts. The definition of "sale" includes "[t]he producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting." G.L. c. 64H, § 1(12)(b).

For sales tax purposes the definition of "retail sale" excludes "professional...or personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made." G.L. c. 64H, § 1(13)(c). The retouching of photographs for a fee is a personal service transaction which involves no sale. Cf., Letter Rulings 80-80 and 82-85 (refinishing equipment and furniture). It follows that this transaction is not a retail sale and is therefore not subject to the sales tax.

Very truly yours,

Ira A. Jackson
Commissioner of Revenue

IAJ/HW:n

LR 86-3



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

April 15, 1986

The ("Company") is in the business of renting and selling construction equipment to construction contractors. One of the Company's customers ("Contractor") rents three types of equipment from the Company, namely scaffolding, "sky climbers" and power lifts. You state that the Contractor uses this equipment in the construction, remodeling or repair of real estate pursuant to construction contracts with the ("Utility"). The Utility has a direct payment permit for the payment of sales tax.

You ask two questions. One is whether the Contractor may use the Utility's direct payment permit to pay directly any sales tax due on the Contractor's rental of construction equipment from the Company for use in its work for the Utility. We conclude that the Contractor may not use any direct payment permit for the rental of construction equipment from the Company.

The sales tax is imposed upon retail sales of tangible personal property in Massachusetts. G.L. c. 64H, § 2. The term "sale" includes a lease. G.L. c. 64H, § 1(12)(a). Retail sales are sales of tangible personal property for any purpose other than resale in the regular course of business. G.L. c. 64H, § 1(13).

General Laws Chapter 64H, Section 3(b) states the rules for direct payment permits. This section states that a direct payment permit may be used only by the permit holder, and that it may not be used in connection with the construction, remodeling or repair of real estate. G.L. c. 64H, § 3(b). Since the Contractor is not a permit holder, and since the property is leased by the Contractor in connection with the construction, remodeling or repair of real estate, the Contractor may not use the Utility's, or any other, direct payment permit to pay directly any sales tax due on the lease of such property.

The second question you ask is whether the Company must collect and pay over sales tax on the Contractor's rentals of equipment, or whether the Company may accept a resale certificate from the contractor in lieu of sales tax.

Contractors must adhere to the following guidelines in paying sales tax or giving resale certificates on their purchases. A contractor who purchases materials from a retailer for use in building construction is generally considered the consumer of the materials and not a purchaser for resale for sales and use tax purposes. Seltzer and Co., Inc. v. State Tax Commission, ATB Docket Nos. 68886, 68887 (1975), aff'd sub nom. Ace Heating Service, Inc. v. State Tax Commission, 371 Mass. 254 (1976); Letter Ruling 84-85. Thus a contractor must pay the sales tax as a consumer upon the purchase of all materials or supplies used by it in fulfilling a lump-sum contract, a cost-plus contract, or a time and material contract with an upset or guaranteed price which may not be exceeded.

However, in two situations a contractor would be considered a vendor and therefore would be able to give its vendor a properly executed resale certificate:

- (a) where a contractor contracts to sell materials or supplies at an agreed price and to render service in connection therewith, either for an additional agreed price or on the basis of time consumed; and
- (b) where a contractor is actually engaged as a vendor in the business of selling or renting such materials or supplies at retail.

In the case of (a) or (b), a contractor must collect the sales tax due from the person to whom the contractor resells or rerents the materials and supplies and pay it over to the Commonwealth. G.L. c. 64H, §§ 2, 3(a).

The following rules summarize the Company's tax obligations. All gross receipts of a vendor are presumed to be from taxable sales. G.L. c. 64H, § 8(a). The vendor of tangible personal property has the burden of proving that any part of its gross receipts are not from sales subject to tax. G.L. c. 64H, § 8(a). If the vendor accepts in good faith a properly executed resale certificate from a purchaser who is engaged in the business of selling tangible personal property, who is registered as a vendor for sales tax purposes, and who, at the time of purchasing the tangible personal property, intends to resell or rerent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be resold or rerented or will be used for some other purpose, the certificate will relieve the vendor

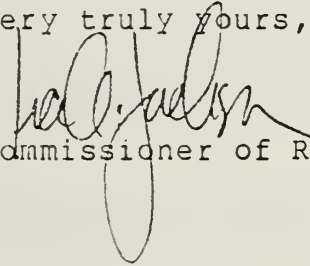
April 15, 1986
Page 3

of its burden of proof. G.L. c. 64H, §§ 1(12)(a), 7, 8(a), (b), (c). The "good faith" requirement means that the vendor must have no reason to believe that the contractor purchased the property from the vendor for any purpose other than resale or rental in the regular course of business. Cf., Letter Ruling 83-34.

A properly executed resale certificate is signed by the purchaser, bears the purchaser's name, address and registration number, and indicates the general character of the property which is sold or rented by the purchaser in the regular course of business. G.L. c. 64H, §§ 1(12)(a), 8(a). Thus, if the Company, as vendor of the construction equipment, accepts a properly executed resale certificate from the Contractor in lieu of sales tax, under the circumstances outlined in Section 8 of Chapter 64H, set forth above, and the Company has no reason to believe that the Contractor is purchasing the equipment for any purpose other than resale or rental in the regular course of business, the Company's gross receipts from such sale are not subject to tax.

The law provides that where a purchaser, who gives a resale certificate in lieu of paying sales tax on its purchase, makes any use of the property purchased, other than retention, demonstration or display while holding it for resale or rental in the regular course of business, the use of the property is considered a retail sale by the purchaser as of the time the property is first used by him, and the purchaser would be liable for sales tax on his cost. G.L. c. 64H, § 8(d). Thus, a contractor which gives the Company a resale certificate and makes any use of the property other than retention, demonstration or display while holding it for rental in the regular course of business, is obligated to pay sales tax on the cost of the property to the contractor.

Very truly yours,


Commissioner of Revenue

IAJ:HW:gh

LR 86-4



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

May 8, 1986

You ask whether operators of hotels, motels, and lodging houses located in the Commonwealth are required to collect the state and local room occupancy excises imposed by G. L. c. 64G when rooms are rented to the Department of Public Welfare (DPW) under the Commonwealth's Emergency Assistance Program. G.L. c. 18, § 2(D). Under the Emergency Assistance Program the DPW provides temporary shelter for certain needy families for periods not to exceed 90 days. G.L. c. 18, § 2(D); 106 CMR 309.040(B)(5)(d). Once an eligible recipient is identified, the DPW arranges for specific services for that client in a hotel or motel. After the hotel or motel operator provides the authorized services to the client and submits the appropriate claim form, the DPW makes payment to the operator for services performed.

For the following reasons, we conclude that operators of hotels, motels and lodging houses located in the Commonwealth are required to collect the state and local room occupancy excises imposed by G.L. c. 64G upon the rental of rooms to the DPW or its clients under the Emergency Assistance Program. For the purposes of this ruling we assume without deciding that the DPW rents the rooms.

1. The DPW is an "occupant," as that term is defined in G.L. c. 64G, § 1(f), from whom the operator must collect the room occupancy excises.

General Laws Chapter 64G, Section 1(f), defines "occupant" as "a person who, for a consideration, uses, possesses or has a right to use or possess any room or rooms under any lease, concession, permit, right of access, license or agreement" (emphasis added). The word "person," for room occupancy excise purposes, "includes an individual, partnership, trust or association with or without

transferable shares, joint stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee, or referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit." G.L. c. 64G, § 1(g).

Although general words in a statute such as "person" are not ordinarily construed to include the Commonwealth or its political subdivisions, in some situations the meaning of such general words has been interpreted more broadly to include governmental agencies. Nardone v. United States, 302 U.S. 379, 383-84 (1937) (federal officers are "persons" within the meaning of the Communications Act of 1934); Attorney General v. Woburn, 322 Mass. 634, 637 (1948) ("whoever," which has the same definition as "person" under G.L. c. 4, § 7, Twenty-third, includes municipalities, at least as to certain provisions of St. 1911, c. 291); See also, Town of Hadley v. Department of Revenue, ATB Docket No. 99814 (3/10/81) (the Town of Hadley was a "person" for purposes of the excise on special fuels imposed by G.L. c. 64E.) While these decisions standing alone may not compel the conclusion that the DPW is a "person" subject to taxation under G.L. c. 64G, they do support the proposition that government agencies can be "person(s)" within the meaning of Chapter 64G, even though government agencies are not expressly mentioned in the wording of that statute.

This position receives further support in other language used in the room occupancy excise statute, particularly in comparison with corresponding language in the sales tax statute, G.L. c. 64H. The word "person" is defined differently in each statute. Under the sales tax "person" is defined as "an individual, partnership, trust, association, etc...." G.L. c. 64H, § 1(7). Under the room occupancy excises "person includes an individual, partnership, trust, association, etc...." G.L. c. 64G, § 1(g) (emphasis added). This slight difference in the language is significant. It suggests that, unlike its use in the sales tax, the use of "person" in the room occupancy statute is not intended to be limited only to those particular entities listed in the definition. See, e.g., Pacific Indemnity Co. v. Interstate Fire and Casualty Co., 488 A. 2d. 486 (Md. 1985); People v. Western Airlines, Inc. 268 P. 2d. 723 (Cal. 1985).

Even more significantly, the sales tax statute contains an express provision under which sales to Massachusetts agencies are excluded from taxation. G.L. c. 64H, § 6(d). Sales to state agencies are exempt from the tax not because state agencies fall outside the definition of "person" under G.L. c. 64H, § 1(7), but rather because the Legislature enacted an exemption specifically directed at "the commonwealth ... its subdivisions ... and agencies" G.L. c. 64H, § 6(d). There is no corresponding exemption in the room occupancy statute, and it is reasonable to assume that the more inclusive definition of "person" in the room occupancy excises,

coupled with the absence of an exemption in that statute for government agencies, reflects a deliberate legislative intent to bring government agencies within the scope of the statute. This conclusion seems inescapable when one considers that both statutes were a part of the same tax legislation originally enacted by the General Court in 1966. (The sales tax originated as a temporary act in St. 1966, c. 14, § 1; and the room occupancy excise was enacted by St. 1966, c. 14, § 25.)

In view of the conclusion that the DPW is a "person" within the meaning of G.L. c. 64G, § 1(g), it follows that the DPW is an "occupant" under the definition of that term in G.L. c. 64G, § 1(f). Unless otherwise exempt, the DPW is obligated to reimburse the operator of the hotel, motel or lodging house for the tax. G.L. c. 64G, § 4.

2. General Laws Chapter 64G does not provide an exclusion for the rental of rooms in a hotel, motel, or lodging house by the DPW for its clients under the Commonwealth's Emergency Assistance Program.

There are five specific exclusions from the room occupancy excises in G.L. c. 64G, § 2. From the plain language of Section 2 it is clear that none of these exclusions applies to the transfer of occupancy, to DPW or its clients, of a room in an ordinary hotel, motel, or lodging house. A public hotel, motel or lodging house is simply not a lodging accommodation at a "... state ... institution" (G.L. c. 64G, § 2(a)) or at a "religious, charitable, educational or philanthropic institution" (G.L. c. 64G, § 2(b)). Similarly, a public hotel, motel, or lodging house is neither a "private convalescent home" (G.L. c. 64G, § 2(c)) nor a religious or charitable home (G.L. c. 64G, § 2(d)) for the aged, infirm, indigent or chronically ill. Finally, a hotel, motel or lodging is obviously not a "summer camp for children ..." (G.L. c. 64G, § 2(e)). It must be presumed that in excluding only these particular types of entities from the room occupancy excises, the Legislature intended to impose the tax on those organizations or entities not enumerated. See, Supreme Council of the Royal Arcanum v. State Tax Commission, 353 Mass. 111, 114 (1970).

Moreover, as the Supreme Judicial Court has stated, an exemption from taxation is a privilege, and will not be recognized unless it is shown that the exemption is conferred either by the express words or by the necessary implication of the statute. First Agricultural National Bank v. State Tax Commission, 353 Mass. 172 (1967), rev'd on other grounds, 392 U.S. 339 (1968). See, e.g., Town of Milton v. Ladd, 348 Mass. 762 (1965) (a statute granting exemption from taxation must be strictly construed). In the sales tax area the Court has said that if the exemption is explicitly defined and restricted, it cannot be revised. S.J. Groves & Sons Co. v. State Tax Commission, 372 Mass. 140, 145 (1977).

The exclusions set out in G.L. c. 64G, § 2, are not uncertain or vague. Cf. Ace Heating Service, Inc. v. State Tax Commission, 371 Mass. 254, 255 (1976); (uncertain sales tax exemption need not be interpreted narrowly); Courier Citizen Co. v. Commission of Corporations and Taxation, 358 Mass. 563, 569 (1971) (an ambiguous exemption does not require special burden of proof by a taxpayer). To the contrary, they are explicitly defined and restricted. See, S.J. Groves and Sons, Co., supra. They do not reach and may not be stretched to reach the rental of rooms in a hotel, motel or lodging house by the DPW for its clients under the Commonwealth's Emergency Assistance Program.

3. Neither the taxing provision (Pt. 2, C. 1, § 1, Art. 4) nor the separation of powers provision (Pt. 1, Art. 30) of the Massachusetts Constitution exempts the Department from the room occupancy excises.

Massachusetts courts have consistently stated the general rule that state tax legislation is entitled to the benefit of every constitutional doubt. Andover Savings Bank v. Commissioner of Revenue, 387 Mass. 229, 235 (1982). ("In addressing a constitutional challenge to a tax ... the tax is endowed with a presumption of validity and is not ... void unless its invalidity is established beyond a rational doubt.") See also, Eaton, Crane & Pike Co. v. Commonwealth, 237 Mass. 523, 527 (1921). The authority to tax is a fundamental power of the legislative branch, explicitly vested in the General Court by Pt. 2, C. 1, § 1, Art. 4 of the Constitution. This provision is a broad grant of authority to the Legislature, rather than a limitation on the Legislature's powers. 2 OP Ag 161, (1900)). Although the Supreme Judicial Court has never ruled on the issue, other courts have held that this provision of the Constitution does not prohibit the Commonwealth from subjecting its own agencies and subdivisions to taxation. See, Massachusetts Turnpike Authority v. Metaxas, Suffolk Superior Ct., Equity No. 98079 (1/9/75); (gasoline and special fuels excises); Town of Hadley v. Department of Revenue, ATB No. 99814 (3/10/81) (special fuels excise). In addition, we find no specific authority for the proposition that the Massachusetts Constitution demands a blanket exemption from taxation owing to all Massachusetts government agencies.

However, even if the Massachusetts Constitution did not permit the General Court to impose a tax directly on the DPW, the Commissioner of Revenue would nevertheless not be excused from collecting the room occupancy excises under the circumstances which are described here. This is because the room occupancy excises imposed by G.L. c. 64G are imposed only upon operators of hotels, motels, and lodging houses. The statute does not tax occupants. Under Massachusetts law the legal incidence of a tax is upon the

party ultimately responsible to the taxing authority. Supreme Council of the Royal Arcanum, supra, 358 Mass. 111, at 113; First Agricultural National Bank v. State Tax Commissioner, supra, 353 Mass at 177.1/

In the case of the room occupancy excises, the responsible party is the operator. G.L. c. 64G, § 3. The operator is required to make the return. G.L. c. 62C, § 16(g). The assessment and collection through criminal and civil remedies may be made only against the operator. G.L. c. 64G, § 7B. The tax abatement procedures are applicable only to operators. G.L. c. 64G, § 7A. Finally, there is no provision permitting the Commonwealth to enforce payment of the excises against an occupant; and, as long as the operator pays the excises to the Commonwealth, there are no sanctions imposed if the operator chooses not to charge the room occupancy excises to an occupant.

Under the principles discussed in First Agricultural National Bank, the excises imposed by Chapter 64G are taxes upon the operators of the hotels, motels and lodging houses with which DPW or its clients contracts. They are not imposed upon the DPW. Since these taxes fall on the operators, the Constitution is not offended even if the economic burden of payment may be passed on to the DPW. First Agricultural National Bank supra, at 177.

1/ In First Agricultural National Bank the Supreme Judicial Court ruled that a national bank could not avail itself of an exemption from sales tax which was based in part upon the United States Constitution because the bank was a "purchaser" under G.L. c. 64H, and because the legal incidence of our sales tax is on the "vendor" rather than the "purchaser." 353 Mass. 180-181. The Court reasoned that the United States Constitution provides federal immunity from taxation only where the legal incidence of the tax falls upon the party claiming the constitutional immunity. 353 Mass. 177-180. Since the Court held that the ultimate responsibility for the sales tax was the vendor's and not the purchaser's, the Court denied the exemption to the bank.

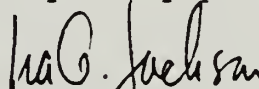
The United States Supreme Court reversed the Supreme Judicial Court and held that incidence of the Massachusetts sales tax was on the purchaser not the vendor. 392 U.S. at 348. However, the U.S. Supreme Court deliberately limited its opinion to questions which have an impact on federal immunity. Thus, by its own terms, the reversing decision does not purport to address or resolve state constitutional issues. As to such matters the Supreme Judicial Court is the final authority in Massachusetts. The reasoning and the rule of the Supreme Judicial Court in First Agricultural National Bank are still the law of this Commonwealth. Supreme Council of the Royal Arcanum, supra, ("we see no reason however, for changing our conclusion [in First Agricultural National Bank] on the incidence of the sales tax in a situation where federal immunity ... is not involved.") 358 Mass. at 113.

Finally, requiring operators of hotels, motels and lodging houses to collect the room occupancy excises upon the rental of rooms to the DPW under the Emergency Assistance Program does not violate the separation of powers provision found in Article 30 of the Declaration of Rights of the Constitution of Massachusetts. The Supreme Judicial Court has recognized that separation of powers does not require "watertight compartments" within the government, and that one branch may assume certain functions which do not "unduly restrict" the endeavors of another branch. Opinion of the Justices, 372 Mass. 883, 892 (1977). The collection of taxes under these circumstances does not "unduly restrict" the functions of the executive branch of the Commonwealth.

Conclusion

In arriving at our decision in this matter, we are not unmindful of the DPW's responsibilities under the Emergency Assistance Program, nor do we view lightly your concerns about a system of taxation in which private and public entities are required to share equally in the costs of state government. On the other hand, whatever the benefits of an administrative decision excusing the DPW from the excises imposed by Chapter 64G, the Commissioner of Revenue lacks authority to make such a decision.

Very truly yours,



Commissioner of Revenue

IAJ:loc

LR 86-5



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building

100 Cambridge Street, Boston 02204

May 8, 1986

You inquire whether the income earned by the investment fund of a foreign country's government ("Customer"), which is in a trust maintained by your bank as trustee, is completely taxable to the Customer or is partially taxable to the Customer and partially taxable to the trust or to the bank.

The fund contains four separate funds invested by the same Customer, and has been drawn up as a "pooled fund." The written agreement between the bank and the Customer ("Agreement") provides that the assets of the Customer will not be co-mingled with the assets of other customers. The Customer may withdraw all or any part of the pooled fund upon ten days' notice and may terminate the Agreement upon thirty days' notice. You state that this Customer is the only owner of the fund.

General Laws Chapter 62, Section 10(e) provides:

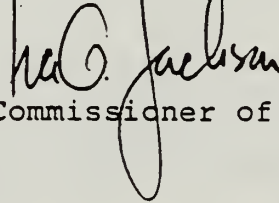
If the grantor or another person is treated as the owner of any portion of a trust by reason of the provisions of section six hundred and seventy-one to six hundred and seventy-eight inclusive, of the federal Internal Revenue Code, the items of income, deduction and credits against tax which are attributable to that portion of the trust shall not be taken into account in calculating the income taxable to the trust but shall be taken into account in computing the Massachusetts taxable income or credits against the tax of such grantor....

May 8, 1986

Page two

Under Internal Revenue Code Section 677, "[t]he grantor shall be treated as the owner of any portion of a trust...whose income...in the discretion of the grantor...may be...distributed to the grantor...(or) held or accumulated for future distribution to the grantor...." The Customer is the grantor of the pooled income fund since it has transferred to such fund the assets which the fund holds. The Customer is owner of the pooled fund under Section 677 because of its discretion in making withdrawals under the Agreement. As a result, provided that the Customer continues to be the sole owner of the fund, the income earned by the pooled fund is not taxable to the trust or bank under G.L. c. 62, § 10(e).

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. C. Jackson", written over the typed name of the Commissioner of Revenue.

Commissioner of Revenue

IAJ:HW:mf

LR 86-6



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

July 9, 1986

You manage the ("Lodge"). As you describe it, the Lodge rents overnight accommodations "by the individual rather than by the room." Most rooms are dormitory style, and the charge is \$12.00 per adult and \$6.00 per child. The Lodge does not guarantee private accommodations in dormitory rooms unless a guest rents all the beds in a particular room at the \$12.00 rate.

In addition to the dormitory rooms the Lodge has two private rooms each with one double bed. You state that if one person occupies the room the charge is \$12.00; if two occupy the room the rate is \$12.00 each or \$24.00. A private room with double bed is rented to one person at the \$12.00 rate only when accommodations and number of guests permit. Where one person rents the private room in order to guarantee privacy the rate is \$24.00.

You ask how the 1984 amendment to the room occupancy tax affects the application of the room occupancy tax to the transactions you describe. In general, Massachusetts law imposes a tax upon the transfer of occupancy of any room or rooms in a hotel, lodging house or motel in Massachusetts, at a rate of 5.7 percent of the total rent charged for each occupancy. G.L. c. 64G, § 3; St. 1969, c. 546, § 22. The 1984 amendment provides that no tax is imposed if the total amount of rent is less than fifteen dollars per day or its equivalent. St. 1984, c. 358, § 2. Before the 1984 amendment no tax was imposed if the rent charged was less than two dollars per day or its equivalent. In addition, under G.L. c. 64G, § 3A, added by St. 1985 c. 145, § 6, a city or town which accepts the provisions of c. 64G, § 3A, may impose an additional excise of up to four percent on the transfer of occupancy of any room or rooms in a hotel within the city or town. See also 830 CMR 64G.01, "Local Option Room Occupancy Excise."

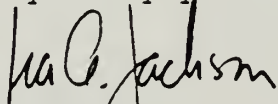
The term "occupancy" is defined to include the "use or possession, or the right to the use or possession, of any room or rooms in a hotel, lodging house or motel . . . or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such room or rooms" G.L. c. 64G, § 1(e). "Rent" is defined as "the consideration received for occupancy valued in money" G.L. c. 64G, § 1(h).

A guest seeking overnight accommodations in a hotel, lodging house or motel typically rents a room rather than merely renting a bed. The use or possession, or right to use or possession of, such a room is considered a single occupancy regardless of the number of guests sleeping in the room. Therefore the room occupancy excise is levied on the room rental charge. If a hotel, motel or lodging house charges an additional amount for an extra guest in a private room, the total charge is the charge subject to tax. When a guest is charged for occupancy of a bed within a room and does not rent the entire room, the tax is levied on the amount the guest is charged for such occupancy. If the charge for such occupancy is less than fifteen dollars, no tax applies.

The specific transactions you describe are subject to the room occupancy tax as follows. When a guest is charged for occupancy of a bed within a dormitory room, the tax is levied on the amount the guest is charged for such occupancy. Since the Lodge charges less than \$15.00 for such occupancy, no tax applies. If a guest seeks to guarantee privacy in a dormitory room, the guest must rent all beds at the \$12.00 rate. In this situation the room occupancy tax is levied on the entire amount charged for the room.

To guarantee reservation of the private room for use by one person, a guest pays the \$24.00 rate. If two people occupy the private room, the rate is \$24.00. The rate for the private room, then, is \$24.00. Therefore, the room occupancy is levied on the entire amount charged for the private room. When circumstances are such that the total charge for a private room is only \$12.00, the room occupancy tax does not apply.

Very truly yours,


Commissioner of Revenue

IAJ:SFR:gh

LR 86-7



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

July 25, 1986

You ask whether embroidering of monograms and other patterns on articles such as bags, shirts, towels, hats, etc., which are brought to you by customers, is subject to the Massachusetts sales tax. You indicate that the value of the thread used to embroider a monogram or other pattern is less than ten percent of the total charge for the embroidering service.

Massachusetts General Laws Chapter 64H, § 2 imposes a tax upon sales at retail of tangible personal property in Massachusetts by any vendor except as otherwise provided. The term "sale at retail" does not include personal service transactions which involve no sale or which involve sales as inconsequential elements for which no separate charges are made. G.L. c. 64H, § 1(13)(c).

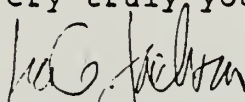
The Massachusetts Sales and Use Tax Regulation 830 CMR 64H.03(2)(a)(2) provides that a service transaction is not subject to the sales tax where the real object of the transactions is the service itself, and an inconsequential transfer of tangible personal property occurs, and the service enterprise does not separately state the purchase price of the property on the bill to the customer. The regulation also states that the term "inconsequential" generally means a value of less than ten percent of the total charge for labor plus materials.

When customers bring articles such as bags, shirts, towels, hats, etc. to you for embroidering, the real object of the transaction is the embroidering service itself. You indicate that the value of the thread is less than ten percent of the total charge for embroidering and therefore the price of the thread is inconsequential in relation to the total charge. Therefore, if you do not separately state the purchase price of the thread on the bill to the customer, the charge for embroidering is not subject to the Massachusetts sales tax.

In the situation described above the service enterprise is considered the consumer of the material used and such enterprise generally pays sales tax when it purchases the material from a vendor. 830 CMR 64H.03(2)(a)(2). Massachusetts General Laws Chapter 64H, Section 6(v) specifically exempts from the sales tax sales of wearing materials or any cloth made of natural or synthetic fibers and used for clothing purposes. The Department has determined that this exemption includes: zippers, buttons, hooks and eyes, thread and similar items used for clothing purposes. Sales of material, thread, buttons, zippers and other similar items used for upholstery, draperies or curtains and other non-clothing uses are not exempt from the sales tax under Section 6(v).

Therefore if the thread you purchase for embroidering is for use in clothing the sale is exempt from the sales tax. If the thread you purchase is for uses other than in clothing the sale is subject to the sales tax.

Very truly yours,



Commissioner of Revenue

IAJ/SFR/mc

LR 86-8



The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

IRA A. JACKSON

COMMISSIONER

KATHLEEN KING PARKER, CHIEF

RULINGS AND REGULATIONS

Index "Update"

11/17/86

Attached please find the new Letter Ruling Index "Update" which includes Letter Rulings 85-51 through 85-70 and 86-1 through 86-8. When researching on a particular page in the June 1985 Letter Ruling Index, be sure to check that page reference in the "Update" to find any new LRS published on the issue you are researching. An asterisk in front of an entry indicates that it is a new category or subcategory which is not included in the June 1985 Index. Please note that we have added older LRS to the "Update" where we found errors or omissions in the June 1985 Index.

0547G

GOVERNMENT DOCUMENTS

COLLECTION

DEC 8 1986

City of Massachusetts

depository Copy

Additions to LR Index
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
1	<u>Letter Rulings</u>	
	Prospective application	84-63, 84-91
	Retroactive application	85-67
	Revocation of	84-63, 85-67, 86-2
1	<u>Returns</u>	
	Sales & Use Tax	86-2
4	<u>Reorganization, merger</u>	
	Corporation to corporate trust	85-63
	Section 368(a)(1)(F)	85-3, 85-63
4	<u>Securities Corporation</u>	
	* Annuity contracts, holding of	86-1
	* Deferred compensation obligations	86-1
	* Key officer insurance	86-1
	Qualification as	86-1
	* Termination of operating business	86-1
8	<u>Propane gas</u>	
	Used in roofing and welding	84-10, 85-67
11	<u>Deductions</u>	
	Rental	82-63
13	* <u>Foreign government</u>	86-6
14	<u>Gains/Losses</u>	
	* Individual retirement account	85-62
18	<u>Reorganization, merger</u>	
	Corporation to corporate trust	85-63
	* Section 368(a)(1)(F)	85-3, 85-63
19	<u>Retirement income/Deferred compensation</u>	
	Individual Retirement Account	
	- Contributions to	85-62
	* - Loss sustained by Fund	85-62
	- Payments from	85-62
21	<u>Retirement inc./Def. comp.</u>	
	* Severance pay	85-52

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
21	* <u>Severance pay</u>	85-52
22	<u>Trusts</u>	
	Corporate trusts	
	- Reorganization	85-63
	Grantor trusts	86-6
	- Distinguished	86-6
	* Pooled Fund	86-6
23	<u>Bed & Breakfast Operations</u>	86-2
26	* <u>Constitutionality</u>	86-5
26	<u>Definitions</u>	
	Occupancy	86-7
	Occupant	86-5
	Operator	86-2
	Person	86-5
	Rent	86-7
26	* <u>Department of Public Welfare</u>	86-5
26	* <u>Dormitory Style Rooms</u>	86-7
26	* <u>Emergency assistance program</u>	86-5
26	* <u>Exclusions</u>	86-5
26	<u>Exemptions</u>	
	* Rentals by Dept of Welfare	86-7
26	<u>Service charges, mandatory</u>	86-2
27	<u>Advertising</u>	85-58
27	* <u>Agricultural production</u>	85-64
27	* <u>Alarm Systems</u>	85-68
27	<u>Allocation</u>	86-2

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
27	* <u>Alterations</u>	85-69
28	<u>Bed and Breakfast Operations</u>	86-2
28	* <u>Beekeeping</u>	85-64
28	* <u>Beekeeping equipment</u>	85-64
28	* <u>Bills of Lading</u>	85-70
28	* <u>Blueprint</u>	82-72
28	<u>Boats</u>	
	* Clam digging	85-53
29	* <u>Clam digging</u>	85-53
29	<u>Clothing</u>	85-64, 85-69, 86-8
30	<u>Collection of sales tax</u>	82-104, 85-57, 85-68, 86-2
30	* <u>Collectors' items</u>	85-54
30	* <u>Comic books</u>	85-54
30	* <u>Commercial beekeeping</u>	85-64
30	<u>Commercial fishing</u>	85-53
30	<u>Commission</u>	85-55
30	<u>Common carrier</u>	85-70
30	<u>Computers</u>	
	Access	85-61
	Monthly fee	85-61
	Rentals	85-61
	Separately stated charges	85-61
	Terminals	85-61

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
32	<u>Containers</u>	85-64
32	<u>Contractor</u>	
	* Acting as a retailer	85-68
	* Alarm Systems, installation of	85-68
	Consumer	85-68
	* Contractor's exempt purchase certificate	85-55
	Construction	86-4
	Public works	85-67
	Purchases by	86-4
	* Resale Certificate	86-4
	Sales by	86-4
	* Rhode Island's treatment of sales by	85-68
32	* <u>Credit unions</u>	85-60
33	<u>Delivery</u>	
	In Massachusetts	84-64, 85-70
	Outside Massachusetts	85-70
34	* <u>Direct Payment Permit</u>	86-4
34	<u>Drop shipments</u>	85-60
34	* <u>Embroidering</u>	86-8
34	<u>Engaged in business</u>	
	In general	85-57, 85-60
35	* <u>Enteral feeding devices</u>	85-59
35	<u>Exempt purchaser certificate</u>	
	*(see also <u>Contractor</u>)	85-57
	<u>Fabrication</u>	85-69
	* <u>Federal law, exemption under</u>	85-60
36	<u>Food preparation equipment</u>	85-51
36	<u>Free goods, services</u>	86-2
36	* <u>"Good Faith" Standard</u>	79-38, 83-34, 86-4

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
36	<u>Government</u> *(see also <u>Federal law, exemption under</u>)	
	Contractor for	85-55
	Public works	85-55
	Sale to	81-44, 85-55
36	* <u>Health practitioners, instruments for</u>	85-57
36	<u>Government</u>	
	Sales to	81-44
37	* <u>Honey extracting and processing machinery</u>	85-64
37	<u>Hospitals</u>	85-57
37	* <u>Incidents of taxation</u>	85-68
37	<u>Inconsequential</u>	86-8
37	<u>Industrial plant</u>	85-51
37-	<u>Infusion pumps</u>	
38	* Administration sets	85-59
	* Controllers	85-59
	* Equipment pole	85-59
	* Filter sets	85-59
39	<u>Livestock</u>	
	Definition	85-64
40	<u>Machinery</u>	
	Agriculture	85-64
	* Honey extracting and processing	85-64
41	<u>Magazines</u>	85-54, 85-58
42	<u>Meals</u>	
43	Bed & Breakfast Operations	86-2
	Pizza	
	Preparation	85-51
	Restaurant	86-2
	Room Rental	86-2
	Sales Price	86-2
43	Sandwiches (delete 83-48 and add 83-49)	
43	<u>Medical equipment</u>	85-57, 85-65
43	* <u>Medical identification cards</u>	85-65

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
43	<u>Medicine</u>	85-66
44	<u>Mobile homes</u> (see also <u>Modular homes</u> , <u>Prefabricated buildings*</u> , and <u>Trailers</u>)	
44	<u>Modular homes</u> (*see also <u>Prefabricated buildings</u>)	
44	<u>Monthly fee</u>	85-61
45	<u>Newsletter</u>	85-58
45	<u>Newspaper</u>	85-58
45	<u>Non prescription drugs</u> (*see also prescription drugs)	
46	* <u>Outboard motors</u>	85-53
46	* <u>Parenteral feeding devices</u>	85-59
47	<u>Photographs</u>	86-3
47	* <u>Pizza</u> * Preparation	80-43, 85-51
47	* <u>Pollination services</u>	85-64
47	* <u>Prefabricated buildings</u>	85-55
47	<u>Prescription drugs and equipment</u>	85-66
47	<u>Propane</u>	85-67
48	* <u>Protective clothing</u>	85-64
48	<u>Public works</u>	85-55
48	<u>Real property</u>	85-68
48	<u>Recreational Facilities</u>	86-2

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
49	<u>Rentals</u>	
	Computers	85-61
	Room	86-2
	<u>Repair</u>	85-69
50	<u>Resale certificate</u>	
	* Contractor	86-4
	* Good Faith Standard Massachusetts	79-38, 83-34, 86-4 85-55, 85-60
50	* <u>Restaurant</u>	85-51
50	<u>Retail sale</u>	
	Personal service transactions	85-65
	Presumption of	85-55, 85-60
	Purpose other than resale	85-57, 85-68
50	* <u>Retailer</u>	
	Acting as	85-68
	Defined	84-90, 84-91
50	* <u>Retouching of Photographs</u>	86-3
51	<u>Roofing</u>	85-67
51	<u>Room Rental</u>	86-2
51	<u>Sale, defined</u>	85-61
51	<u>Sale, situs of</u>	85-70
51/52	<u>Sales price</u>	
	* Commission	85-55
	Defined	85-65
	Free goods, services	86-2
	Installation	85-55
	Room rental	86-2
	Service charge	85-65, 86-2
	Transportation charges	85-56

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
52	<u>Service charges, mandatory</u>	86-2
53	<u>Services, separate charge</u>	86-2, 86-8
53	<u>Service transaction</u>	85-65, 86-2, 86-3 86-8
53	* <u>Sewing notions</u>	86-8
54	<u>Subscriptions</u>	85-58, 85-61
54	<u>Subsidiary</u>	85-70
54	<u>Tangible personal property</u>	85-68
54	<u>Tax-exempt organizations</u>	
	General	85-67
	Purchases by	85-57
55	<u>Title or possession, transfer of</u>	85-70
55	<u>Transportation charges</u>	85-56
56	<u>Use tax</u>	
	In general	85-55, 86-2
56	<u>Vendor</u>	
	Defined	85-68
	Registration	85-57, 85-60 85-68
56	<u>Vessels</u>	
	* Clam digging	85-53
	Commercial fishing	85-53
56	<u>Warehouse in Massachusetts</u>	85-70
	<u>Welding</u>	85-67
	<u>"Wireless" alarm systems</u>	85-68
<u>M.G.L. c. 4,</u>	§ 6	85-58
	§ 7 (twenty-third)	86-5
<u>M.G.L. c. 18,</u>	§ 2(D)	86-5

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
<u>M.G.L. c. 62,</u>	§1(c)	85-62
	§1(j)	85-63
	§2	85-52
	§2(a)	85-52, 85-62
	§2(a)(2)(F)	85-62
	§2(d)(9)	85-62
	§3	85-52
	§4	85-52
	§5	85-52
	§8(a)	85-63
	§10(e)	86-6
<u>M.G.L. c. 62C,</u>	§6(a)	85-52
	§16(g)	86-5
<u>M.G.L. c. 63,</u>	§38B	86-1
<u>M.G.L. c. 64E,</u>		86-5
<u>M.G.L. c. 64G,</u>	§1(e)	86-2, 86-7
	§1(f)	86-5
	§1(g)	86-5
	§1(h)	86-7
	§2	86-5
	§2(a)	86-5
	§2(b)	86-5
	§2(c)	86-5
	§2(d)	86-5
	§2(e)	86-5
	§3	86-2, 86-7
	§3A	86-2, 86-7
	§4	86-5
	§7A	86-5
	§7B	86-5
<u>M.G.L. c. 64H,</u>	§1(5)	85-57
	§1(6)	85-65
	§1(7)	86-5
	§1(12)(a)	85-61, 85-64, 85-70
		86-4
	§1(12)(b)	85-69, 86-3
	§1(13)	85-57, 85-60
		85-68, 86-4

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
	§1(13)(c)	85-65, 85-68, 86-3 86-8
	§1(14)	85-65
	§1(14)(a)	85-65
	§1(14)(a)(ii)	85-55
	§1(14)(a)(iii)	85-55, 85-56
	§1(14)(b)	85-65
	§1(14)(c)(v)	85-56
	§1(15)	85-68
	§1(18)	85-57, 85-68
	§2	86-2, 86-8
	§3	86-4
	§3(a)	86-4
	§3(b)	86-4
	§6	85-57, 85-60
	§6(a)	85-60
	§6(b)	85-70
	§6(d)	85-55, 86-5
	§6(e)	85-57, 85-58
	§6(f)	82-48, 84-50 85-67
	§6(g)(1)	85-64
	§6(h)	86-2
	§6(k)	85-64, 85-69
	§6(l)	85-57, 85-59 85-66
	§6(m)	85-54, 85-58
	§6(o)	85-53
	§6(p)(1)	85-64
	§6(r)	85-64, 85-67
	§6(s)	85-64, 85-51
	§6(v)	85-69, 86-8
	§7	85-60, 85-68, 86-4
	§8	86-4
	§8(a)	85-53, 85-55, 85-60, 85-64, 86-4
	§8(b)	85-55, 85-60, 86-4
	§8(c)	85-55, 86-4
	§8(d)	86-4
	§8(f)	85-53, 85-55, 85-64
<u>M.G.L. c. 64I,</u>	§1(1)	85-68
	§2	85-55
	§7(b)	85-55

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
	<u>M.G.L. c. 125, §1A</u>	85-64
	<u>I.R.C.</u>	
	*12 U.S.C. §1768	85-60
	26 U.S.C. §61(a)	85-52
	26 U.S.C. §368(a)(1)(F)	85-63
	26 U.S.C. §408(d)(1)	85-62
	26 U.S.C. §408(e)(1)	85-62
	26 U.S.C. §501(c)(3)	85-57, 85-59
	26 U.S.C. §671-678	86-6
	26 U.S.C. §677	86-6
		85-6

CASES

<u>Ace Heating Service, Inc. v. State Tax Commission,</u> 371 Mass. 254 (1976)	85-68, 86-5
<u>Andover Savings Bank v. Comm. of Revenue,</u> 387 Mass. 229 (1982)	86-5
<u>Atty General v. Woburn,</u> 322 Mass. 634 (1948)	86-5
<u>Central Credit Union of Maryland v. Comptroller,</u> 243 Md. 175 (1966).	85-60
<u>Commissioner v. McGraw - Hill, Inc.</u> 383 Mass. 397 (1981).	85-65
<u>Courier Citizen Co. v. Comm. of Corp. & Taxation</u> 358 Mass. 563 (1971)	86-5
<u>Eaton, Crane & Pike Co. v. Commonwealth</u> 237 Mass. 523 (1921)	86-5
<u>First Agricultural National Bank v. State Tax Comm.</u> 353 Mass. 172 (1967), 392 U.S. 339 (1968)	86-5
<u>Greenfield Town Crier v. Comm'r</u>	85-58
<u>Houghton v. Payne</u> 194 U.S. 88, 101 (1904)	85-54

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page

Entry

LR

<u>Houghton Mifflin Co. v. State Tax Commission,</u> 373 Mass. 772 (1977)	85-65
<u>Ingraham v. State Tax Commission</u> 368 Mass. 242, 248 (1975)	85-52
<u>Mass. Turnpike Authority v. Metaxas</u> Equity No. 98079 (1/9/75)	86-5
<u>Nardone v. U.S.</u> 302 U.S. 379 (1937)	86-5
<u>2 OP Ag 161 (1900)</u>	86-5
<u>Opinion of the Justices</u> 372 Mass. 883 (1977)	86-5
<u>Pacific Indemnity Co. v. Interstate Fire & Casualty Co.</u> 488 A. 2d 486 (MD 1985)	86-5
<u>People v. Western Airlines, Inc.</u> 268 P. 2d 723 (Cal. 1985)	86-5
<u>S.J. Groves & Sons Co. v. State Tax Commission,</u> 372 Mass 140 (1977)	85-67, 86-5
<u>Sears Roebuck v. State Tax Commission</u>	85-58
<u>State Tax Commission v. POGM Co.</u> 369 Mass. 611 (1976)	86-1
<u>State Tax Commission v. Wheatland</u> 343 Mass. 650, 652 (1962)	85-52
<u>Supreme Council of the Royal Arcanum v. State Tax Comm.</u> 353 Mass. 111 (1970)	86-5
<u>Tabco Federal Credit Union v. Comptroller, Md. St.</u> Tax Rep. (CCH) P 200-441 (Baltimore County Cir. Ct. June 22, 1964).	85-60
<u>Town of Hadley v. DOR</u> ATB Docket No. 99814 (3/10/81)	86-5
<u>Town of Milton v. Ladd</u> 348 Mass. 762 (1965)	86-5

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
<u>MASS. REGULATIONS</u>		
	No. 12	86-4
	106 CMR 309.040(B)(5)(d)	86-5
	830 CMR 16.03	85-64
	830 CMR 64G.01	86-2, 86-7
	830 CMR 64H.03	85-24, 85-67 85-69
	830 CMR 64H.03(2)(a)(2)	86-8
	830 CMR 64H.06	85-61
	830 CMR 64H.07	85-58
<u>LETTER RULINGS</u>		
	81-52	85-67
	81-95	85-58
	83-34	86-4
	83-36	85-62
	84-4	85-54
	84-8	85-54, 85-58
	84-10	85-67
	84-33	85-60
	84-38	85-60
	84-67	85-54, 85-58
	84-85	86-4
	84-90	86-2
	84-109	85-62

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
	85-3	85-63
	85-13	85-65
	85-16	85-65

MASS. FORMS

ST-12	85-64
TA-1	85-57

FED. REGULATIONS

\$1.61-2(a)	85-52
\$671 -678	86-6
\$677	86-6

Miscellaneous

Rhode Island G.L. §44-18-8	85-68
Rhode Island G.L. §44-18-18	85-68
R.I. Reg. C-Contractors & Subcontractors	85-68

Federal

Acts

Communications Act of 1934	86-5
----------------------------	------

Massachusetts

Constitution

Pt. 2, c.1 §1, Art. 4	86-5
Pt. 1, Art. 30	

Acts

1911	291	86-5
1966	14, § 1	86-5

Additions to LR Index (Con't.)
(85-51 -- 85-70 and 86-1 -- 86-8 added)

Page	Entry	LR
1966	14, \$ 25	86-5
1969	546, \$ 22	86-7
1984	358, \$ 2	86-7
1985	145, \$ 6	86-2, 86-7

0312G